

qualified to perform the services, is established by staff within the [transportation agency] *Procuring Agency*. The [firms] *consultants* on the candidate list are requested to submit technical proposals for the requested services. The *technical* proposals are evaluated by staff within the [transportation agency] *Procuring Agencies Evaluation Committee* and a recommendation for selection is made to the [transportation agency] *Procurement Agency head or designee*. A contract for the requested services is then negotiated with the selected *consultant* [firm] subject to review and approval by the [transportation agency] *Procurement Agency head or designee*.

ELLINGTON E. CHURCHILL  
Secretary of General Services

PETE K. RAHN  
Secretary of Transportation

# Title 26 DEPARTMENT OF THE ENVIRONMENT

## Subtitle 11 AIR QUALITY

### 26.11.17 Nonattainment Provisions for Major New Sources and Major Modifications

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—  
2-303, 10-102 and 10-103, Annotated Code of Maryland

#### Notice of Proposed Action [18-032-P]

The Secretary of the Environment proposes to amend Regulations .01 and .04 under **COMAR 26.11.17 Nonattainment Provisions for Major New Sources and Major Modifications**.

#### Statement of Purpose

The purpose of this action is to amend COMAR 26.11.17 to allow interprecursor trading of ozone precursors, NOx and VOC. These amendments will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland’s State Implementation Plan.

#### Background

These regulations amend the requirements pertaining to Emission Reduction Credits (ERCs) contained in COMAR 26.11.17 Nonattainment Provisions for Major New Sources and Major Modifications. In accordance with COMAR 26.11.17, new or modified major air emission sources of ozone precursors (NOx and VOC) must obtain ERCs to offset emission increases. The availability of ERCs is dependent on the area’s ozone non-attainment classification. The Baltimore metropolitan area is classified as a moderate ozone non-attainment area under the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS). All other areas from which ERCs could possibly be obtained for sources locating in the Baltimore metropolitan area are either marginal 8-hour ozone nonattainment areas or are located in the Ozone Transport Region. As a result, any new major source of VOC or NOx emissions in the Baltimore moderate 8-hour ozone nonattainment area can only obtain ERCs from the Baltimore metropolitan area. VOC ERCs in the Baltimore metropolitan 8-hour ozone nonattainment area are not available and are not expected to become available in the future. NOx ERCs, however, are available in the Baltimore metropolitan area.

#### Sources Affected and Location

Although these regulations will be particularly beneficial to new major stationary sources and major modifications at existing major stationary sources locating in the Baltimore metropolitan 8-hour ozone nonattainment area, the proposed amendments will apply throughout the entire State of Maryland. All areas of the State of Maryland are either located in an ozone nonattainment area or in the Ozone Transport Region and are, therefore, subject to nonattainment NSR requirements.

#### Requirements

The proposed amendments to COMAR 26.11.17 Nonattainment Provisions for Major New Sources and Major Modifications specifically address the nonattainment NSR requirement to offset new emissions with creditable emission reductions. The purpose of the proposed amendments is to allow interprecursor trading for the ozone precursors - NOx and VOC. The amendments to the ERC regulations of COMAR 26.11.17.04 are being proposed in accordance with EPA guidance contained in EPA’s proposed 2008 and 2015 Ozone Implementation Rules. The Code of Federal Regulations 40 CFR 51.165(a)(11) also allows for interprecursor trading. The EPA encourages states to allow interpollutant trading by establishing offset substitution provisions. The amendments to COMAR 26.11.17.01 add the definition for “Interprecursor trading”. Specifically, the proposed new section .04F titled Interprecursor Trading will allow sources to substitute NOx ERCs for VOC ERCs upon meeting the following requirements:

- Submittal of a description of the air quality model(s) used to establish the appropriate ratio for the precursor substitution;
- A proposed ratio for the precursor substitution and accompanying calculations; and
- A demonstration substantiating that the ration achieves an equivalent or greater air quality benefit for ozone in the nonattainment area.

Both monitoring data and modeling completed by the University of Maryland have concluded that the Baltimore metropolitan area is “NOx limited” and that, therefore, NOx reductions are more beneficial to reduce ozone concentrations than VOC reductions. Other nonattainment NSR requirements, which are not affected by the proposed amendments, include, but are not limited to:

- Installation of Lowest Achievable Emission Rate (LAER) control technology;
- Certification that all major sources owned and operated in the State by the same owner are in compliance with all applicable requirements under the Clean Air Act;
- An alternative siting analysis demonstrating that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification; and
- Public comment on the permit.

#### Expected Emissions Reductions

The ERC program ensures that emission increases from the operation of relocated sources or from the operation of new or modified sources does not impede the progress of attaining NAAQS. Emission offsets are required so that there will be reasonable further progress toward attainment of the 8-hour ozone standard. The provision to substitute NOx reductions for VOC reductions will further benefit the region’s air quality as NOx reductions account towards a greater reduction in ozone levels.

#### Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** It is a requirement of the Clean Air Act and federal and State air permitting regulations that major new sources and major modifications at existing major sources of ozone precursors (NO<sub>x</sub> and VOC) in ozone non-attainment areas obtain Emission Reduction Credits (ERCs). If ERCs are not available then a new source cannot build and an existing source cannot expand. Without these amendments, major new VOC sources will not be able to locate in the Baltimore nonattainment area and existing major VOC sources will not be able to expand their operations. The exact monetary benefit to businesses is undetermined.

II. Types of Economic Impact	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	Undetermined
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	Undetermined

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

D. This regulation will make the difference as to whether certain types of sources (i.e. major VOC sources) can locate in the Baltimore area or will have to look elsewhere. Businesses can grow or avoid dramatic costs and possible loss of jobs in a relocation.

F. This regulation allows business to expand and create jobs. It will also potentially avoid the relocation of businesses and loss of jobs. The regulation will also result in air quality improvement due to the removal of additional NO<sub>x</sub> ERC's.

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

The Department of the Environment will hold a public hearing on the proposed action on February 20, 2018 at 10:00 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Mr. Randy Mosier, Chief of the Regulation Division, Air and Radiation Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or email to randy.mosier@maryland.gov. Comments must be received no later than 5:00 p.m. on February 20, 2018 or be submitted at the hearing. For more information, call Randy Mosier at (410) 537-4488.

Copies of the proposed action and supporting documents are available for review at the following locations:

The Air and Radiation Administration offices; and

Regional offices of the Department of the Environment in Cumberland and Salisbury; and The Department of the Environment's website at:

<http://www.mde.state.md.us/programs/regulations/air/Pages/reqcomments.aspx>.

Anyone needing special accommodations at the public hearing should contact the Department of the Environment's Fair Practices Office at (410) 537-3964. TTY users may contact the Department of the Environment through the Maryland Relay Service at 1-800-735-2258.

**.01 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) — (14) (text unchanged)

(14-1) "Interprecursor trading" means that the use of emission reduction credits for any ozone precursor, NO<sub>x</sub> and VOCs, may be used to offset increased emissions of ozone precursors at a specified ratio, as determined in COMAR 26.11.17.04F.

(15) — (27) (text unchanged)

**.04 Creating Emission Reduction Credits (ERCs).**

A. — E. (text unchanged)

F. Interprecursor Trading.

(1) Provided that the other requirements for such offsets are satisfied, the offset requirements of COMAR 26.11.17.03B(3) for emissions of NO<sub>x</sub> and VOC may be satisfied through interprecursor trading by offsetting reductions of emissions of either NO<sub>x</sub> or VOC, by submitting to the Department and EPA for written approval the following information:

(a) A description of the EPA approved air quality model(s) used to establish the appropriate ratio for the precursor substitution;

(b) A proposed ratio, not to be less than the ratio required under COMAR 26.11.17.03B(3), for the precursor substitution and accompanying calculations; and

(c) A technical demonstration substantiating that the ratio achieves an equivalent or greater air quality benefit for ozone in the nonattainment area than what would be achieved without interprecursor trading.

(2) Approvals of precursor substitutions shall be made by the Department and EPA on a case-by-case basis and are permit specific.

BENJAMIN H. GRUMBLES  
Secretary of the Environment